IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 712 (S/S) of 2007

Chandra Shekhar Singh S/o late Sri Diwan Singh
R/o Village-Tallakote, Post-Dhaniakote, Block-Betalghat, Tehsil-Kotiya Kutoli
District- Nainital ------ Petitioner

Versus

1. Additional District Education Officer (Basic), Nainital
2. Block Education Officer, Betalghat Block, Nainital
3. Deputy Block Education Officer, Betalghat Block, Nainital
4. Block Pramukh, Betalghat/ Chairman, Block Education Committee, Batalghat Block, Nainital

------- Respondents

WITH

Writ Petition No. 899 (S/S) of 2006

Km. Pushpa D/o Sri Dungar Ram
R/o Village- Tallakote, Tehsil-Koshyakutoli
District- Nainital ------ Petitioner

Versus

1. State of Uttaranchal through Secretary, Basic Education, Uttaranchal, Dehradun
2. Additional District Education Officer, Basic, Nainital
3. Block Education Officer/Khand Shiksha Adhikari, Block Betalghat, Tehsil Koshyakutoli, District Nainital
4. Basic Shiksha Adhikari, District Nainital
5. Block Pramukh, Block Betalghat, Tehsil Koshyakutoli, District Nainital
6. Chandra Shekhar Singh S/o late Sri Diwan Singh
   Village Tallakote, Bethalghat, District Nainital

------- Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tiwari, learned counsel for the petitioner in Writ Petition No. 712 (S/S) of 2007, Sri R.C. Tamta, learned counsel for the petitioner in Writ Petition No. 899 (S/S) of 2006

and Sri N.P. Shah learned Standing Counsel State of Uttarakhand for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. To issue a writ, order of direction in the nature of mandamus commanding the respondent no. 2 to consider and appoint the petitioner as Shiksha Mitra against available vacancy in primary School- Tallakote, Block- Betalghat on the result of selection made pursuant to Advertisement No. 250 dated 20.03.2006.
2. To issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.
3. Award the cost of this writ petition in favour of the petitioner.

The submission of Sri R.C. Tamta, learned counsel for the petitioner in Writ Petition No. 899 of 2006 is that in the selection for the post of Shiksha Mitra, the petitioner, namely, Km. Pushpa was on top in the merit list, however, she has not been provided appointment in view of the fact that the Permanent Residence Certificate in respect of Gram Tallakote where the school is situated was cancelled by the S.D.M., Koshyakutoli, District Nainital.

Another writ petition has been filed by Chandra Shekhar Singh, who was placed at Serial No. 2 in the panel for selection for the post of Shiksha Mitra with the prayer to respondents to appoint the petitioner as Shiksha Mitra against available vacancy in Primary School Tallakote, Block Betalghat as he was placed at Serial No. 2 and the person, namely, Km. Pushpa who was placed at Serial No.

1, her domicile certificate for the said village has already been cancelled by the Sub-Divisional Magistrate, Nainital.

Sri R.C. Tamta appearing for Km. Pushpa has submitted that the post was advertised for the session 2006-07 and since no person has been appointed against the advertisement issued for the academic session 2006-07, the respondents may be directed to issue fresh advertisement and then provide appointment to the person who is higher in the merit.

Km. Pushpa has not challenged the cancellation of the Permanent Residence Certificate. In these circumstances, as the Permanent Residence Certificate of Km. Pushpa has already been cancelled by the competent authority, no direction can be issued to the respondents to provide appointment to Km. Pushpa in the aforesaid institution as one of the condition for providing appointment on the post of Shiksha Mitra is that the candidate should be of that place where the institution is situated.

So far as Sri Chandra Shekhar Singh, petitioner in Writ Petition No. 712 (S/S) of 2007 is concerned, the authorities may take necessary action in accordance with law for providing appointment to eligible person on the post of Shiksha Mitra.

With this direction, both the writ petitions are finally disposed of. All the pending applications stand disposed of. No order as to costs.

02.07.2007 **(M.M. Ghildiyal, J.)**

VKS